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15 **UNITED STATES DISTRICT COURT**

16 **DISTRICT OF NEVADA**

17 Angel Luis Rodriguez, Jr., individually and as a  
 18 representative of the class,

19 Plaintiff,  
 20 v.  
 21 National Credit Center, LLC,  
 22 Defendant.

23 Case No. 2:23-cv-00738-RFB-BNW

24 **DEFENDANT NATIONAL CREDIT  
 25 CENTER, LLC'S ANSWER TO  
 26 PLAINTIFF'S COMPLAINT**

27 **DEFENDANT NATIONAL CREDIT CENTER, LLC'S ANSWER  
 28 TO PLAINTIFF'S COMPLAINT**

29 COMES NOW the Defendant, NATIONAL CREDIT CENTER, LLC ("NCC") with its  
 30 Answer and Affirmative Defenses to the Complaint filed by Plaintiff Angel Luis Rodriguez, Jr.,  
 31 and in response to the allegations avers as follows:

32 **INTRODUCTION**

33 1. NCC states that the Complaint speaks for itself. NCC denies the factual allegations  
 34 in paragraph 1 of the Complaint.

35 2. NCC admits that it is a consumer reporting agency with regard to the preparation of  
 36 consumer reports, as defined by 15 U.S.C. § 1681a(d), which it furnishes to third parties, many of

1 whom are automobile dealers. NCC denies the remaining allegations of paragraph 2 of the  
2 Complaint.

3 3. NCC denies that the product it offers for OFAC product is a consumer report, as that  
4 term is defined under § 1681a(d) of the Fair Credit Reporting Act, 15 U.S.C. § 1681 *et*  
5 *seq.* (“FCRA”). The remaining allegations of paragraph 3 of the Complaint purport to cite from a  
6 publicly available website, which speaks for itself. NCC denies paragraph 3 of the Complaint to  
7 the extent inconsistent therewith.

8 4. NCC admits that it received several inquiries from Parkway Ford requesting one or  
9 more consumer reports and several OFAC product, which inquiries identified the applicant as an  
10 “Angel L. Rodriguez,” in all but one inquiry, the final inquiry identifying the applicant as “Angel  
11 L. Rodriguez, Jr.” NCC is without knowledge or information sufficient to answer the remaining  
12 factual allegations of paragraph 4 and therefore denies the same.

13 5. NCC denies that the OFAC product is a consumer report under the FCRA. NCC  
14 denies the remaining allegations in paragraph 5 of the Complaint.

15 6. NCC denies the allegations in paragraph 6 of the Complaint.

16 7. NCC denies the allegations in paragraph 7 of the Complaint.

17 8. NCC denies the allegations in paragraph 8 of the Complaint.

18 9. NCC states the Complaint speaks for itself.

#### 19 JURISDICTION

20 10. The allegations in paragraph 10 of the Complaint state a legal conclusion to which  
21 no response is required. To the extent that the allegations in paragraph 10 are contrary to law they  
22 are denied.

23 11. NCC admits that it regularly conducts business in the County of Clark, Nevada  
24 where it provides its customers a mix of consumer report products and non-consumer report  
25 products.

26 12. NCC admits the allegations in paragraph 12 of the Complaint.

27 13. NCC admits the allegations in paragraph 13 of the Complaint.

28 14. NCC admits the allegations in paragraph 14 of the Complaint.

15. NCC admits that various persons in operational leadership work in Clark County, Nevada. NCC denies that any personnel may be held personally liable for any claim alleged in this case.

16. NCC admits that various persons in operational leadership work in Clark County, Nevada. NCC denies that any personnel may be held personally liable for any claim alleged in this case.

17. NCC denies the broad allegations that “other witnesses and documents” are located in Nevada as written.

9       18. The allegations contained in paragraph 18 of Plaintiff's Complaint refer to a  
10 document or website, which speaks for itself. To the extent that the allegations of paragraph 46  
11 vary from the text of that document or website, they are denied. To the extent the allegations in  
12 paragraph 18 constitute legal conclusions, no answer is necessary. To the extent those allegations  
13 are contrary to law, they are denied.

14        19. The allegations in paragraph 19 of the Complaint state a legal conclusion to which  
15 no response is required. To the extent that the allegations in paragraph 19 are contrary to law, they  
16 are denied.

## **PARTIES**

18       20. NCC is without sufficient knowledge or information to admit or deny the facts  
19 related to Plaintiff's residence referenced in paragraph 20 of the Complaint and therefore denies  
20 said allegations.

21       21. The allegations in paragraph 21 of the Complaint state a legal conclusion to which  
22 no response is required. To the extent that the allegations in paragraph 21 are contrary to law, they  
23 are denied.

24        22. NCC admits it is incorporated in Delaware and that it provides “credit, identity  
25 verification, and compliance solutions” as stated on its website. NCC denies the address provided  
26 in the Complaint as accurate and states it has offices located at 7251 West Lake Mead Blvd. Suite  
27 520, Las Vegas, Nevada.

1       23.     NCC admits that it is a consumer reporting agency with regard to the preparation  
2 of consumer reports, as defined by 15 U.S.C. § 1681a(d), which it furnishes to third parties. The  
3 remaining allegations in paragraph 23 of the Complaint state a legal conclusion to which no  
4 response is required. To the extent the allegations in paragraph 23 are contrary to law, they are  
5 denied.

## **STATUTORY BACKGROUND**

7       24. The allegations in paragraph 24 of Plaintiff's Complaint are statements of law,  
8 which speak for themselves, or contain legal conclusions related thereto. To the extent those legal  
9 statements or conclusions are contrary to law, they are denied.

10        25. The allegations in paragraph 25 of Plaintiff's Complaint are statements of law,  
11 which speak for themselves, or contain legal conclusions related thereto. To the extent those legal  
12 statements or conclusions are contrary to law, they are denied.

13       26. The allegations in paragraph 26 of Plaintiff's Complaint are statements of law,  
14 which speak for themselves, or contain legal conclusions related thereto. To the extent those legal  
15 statements or conclusions are contrary to law, they are denied.

16        27. The allegations in paragraph 27 of Plaintiff's Complaint are statements of law,  
17 which speak for themselves, or contain legal conclusions related thereto. To the extent those legal  
18 statements or conclusions are contrary to law, they are denied.

19       28. The allegations in paragraph 28 of Plaintiff's Complaint are statements of law,  
20 which speak for themselves, or contain legal conclusions related thereto. To the extent those legal  
21 statements or conclusions are contrary to law, they are denied.

29 NCC denies the allegations of paragraph 29 of the Complaint.

## FACTUAL ALLEGATIONS RELATING TO PLAINTIFF

24 30. NCC is without sufficient knowledge or information to admit or deny the facts  
25 alleged in paragraph 30 of the Complaint, and therefore denies said allegations.

26 31. NCC is without sufficient knowledge or information to admit or deny the facts  
27 alleged in paragraph 31 of the Complaint, and therefore denies said allegations.

1       32. NCC is without sufficient knowledge or information to admit or deny the facts  
2 alleged in paragraph 32 of the Complaint, and therefore denies said allegations.

3       33. NCC admits that it received an inquiry from Parkway requesting a consumer report  
4 on Plaintiff, and OFAC product. To the extent paragraph 33 implies that an OFAC product is a  
5 consumer report, or that it may be used as a factor in establishing Plaintiff's eligibility for credit,  
6 those allegations are denied.

7       34. NCC admits that it integrates with Parkway Ford through the platform provided by  
8 RouteOne LLC and delivers its product offerings to Parkway Ford through the platform. NCC  
9 admits that it provides certain identity verification and related services to RouteOne LLC, which  
10 makes those services available to dealers using the platform. NCC denies that RouteOne LLC is  
11 acting as an authorized reseller or a consumer reporting agency with regard to the offering of NCC's  
12 products or services. NCC denies the remaining allegations of paragraph 34 of the Complaint.

13       35. NCC denies the allegations of paragraph 35 of the Complaint.

14       36. NCC denies the allegations of paragraph 36 of the Complaint.

15       37. NCC is without sufficient knowledge or information to admit or deny the facts  
16 related to Parkway Ford's communications with Plaintiff alleged in paragraph 37 of the Complaint,  
17 and therefore denies said allegations. Further, NCC denies any inferences in paragraph 37 that the  
18 OFAC product is a consumer report as defined by the FCRA, or that a user is permitted to rely on  
19 the OFAC product to make an eligibility determination regarding a consumer.

20       38. The allegations in paragraph 38 of the Complaint state a legal conclusion to which  
21 no response is required. To the extent that the allegations in paragraph 38 are contrary to law, they  
22 are denied.

23       39. NCC admits the allegations in paragraph 39 of the Complaint.

24       40. NCC is without sufficient knowledge or information to admit or deny the allegations  
25 in paragraph 40, and therefore denies the allegations in paragraph 40 of the Complaint.

26       41. NCC is without sufficient knowledge or information to admit or deny the allegations  
27 in paragraph 41, and therefore denies the allegations in paragraph 41 of the Complaint.

28

1       42. NCC is without sufficient knowledge or information to admit or deny the facts  
2 related to drug traffickers, and therefore denies the allegations in paragraph 42 of the Complaint.

3       43. NCC is without sufficient knowledge or information to admit or deny the allegations  
4 referenced in paragraph 43 of the Complaint, and therefore denies said allegations.

5       44. NCC is without sufficient knowledge or information to admit or deny the allegations  
6 in paragraph 44 of the Complaint, and therefore denies said allegations.

7       45. NCC is without sufficient knowledge or information to admit or deny the allegations  
8 in paragraph 45 of the Complaint, and therefore denies said allegations.

9       46. NCC is without sufficient knowledge or information to admit or deny the allegations  
10 in paragraph 46 of the Complaint, and therefore denies said allegations.

11       47. NCC denies the allegations of paragraph 47 of the Complaint.

12       48. NCC denies any inferences in paragraph 48 that the OFAC product is a consumer  
13 report as defined by the FCRA, or that Parkway Ford was permitted by NCC to use any information  
14 returned by NCC in the OFAC product for eligibility purposes. NCC is without sufficient  
15 knowledge or information to admit or deny the remaining allegations in paragraph 48 of the  
16 Complaint, and therefore denies said allegations.

17       49. NCC is without sufficient knowledge or information to admit or deny the allegations  
18 in paragraph 49 of the Complaint, and therefore denies said allegations.

19       50. NCC is without sufficient knowledge or information to admit or deny the allegations  
20 in paragraph 50 of the Complaint, and therefore denies said allegations.

21       51. NCC is without sufficient knowledge or information to admit or deny the allegations  
22 in paragraph 51 of the Complaint, and therefore denies said allegations.

23       52. NCC is without sufficient knowledge or information to admit or deny the allegations  
24 in paragraph 52 of the Complaint relating to a letter sent by Plaintiff, and therefore denies said  
25 allegations. NCC states it did not receive a file disclosure request from Plaintiff. Paragraph 52 of  
26 the Complaint refers to a document which speaks for itself. To the extent that the allegations in  
27 paragraph 52 of the Complaint vary from the contents of the document, they are denied. The  
28 remaining allegations in paragraph 52 of the Complaint are denied.

1       53. NCC states it did not receive a file disclosure request from Plaintiff and therefore,  
 2 was under no legal obligation to provide a file disclosure to Plaintiff. The remaining allegations of  
 3 paragraph 53 of the Complaint are denied.

4       54. NCC denies the allegations of paragraph 54 of the Complaint, specifically including  
 5 any inferences in paragraph 55 that the OFAC product is a consumer report as defined by the FCRA.

6       **FACTS DEMONSTRATING THAT DEFENDANT WILLFULLY FAILED TO USE**  
 7       **REASONABLE PROCEDURES TO ASSURE MAXIMUM POSSIBLE ACCURACY OF**  
 8       **ITS CONSUMER REPORTS AND TO PROVIDE CONSUMER FILE DISCLOSURES<sup>1</sup>**

9       55. NCC denies the allegations of paragraph 56 of the Complaint, specifically including  
 10 any inferences in paragraph 56 that the OFAC product is a consumer report as defined by the FCRA.

11       56. NCC denies the allegations of paragraph 57 of the Complaint, specifically including  
 12 any inferences in paragraph 57 that the OFAC product is a consumer report as defined by the FCRA.

13       57. The allegations in paragraph 58 state a legal conclusion to which no response is  
 14 required. To the extent that the allegations in paragraph 58 are contrary to law they are denied.  
 15 Further, NCC denies any inference in paragraph 58 that the OFAC product is a consumer report as  
 16 defined by the FCRA.

17       58. The allegations in paragraph 59 state a legal conclusion to which no response is  
 18 required. To the extent that the allegations in paragraph 59 are contrary to law they are denied.  
 19 Further, NCC denies any inference in paragraph 59 that the OFAC product is a consumer report as  
 20 defined by the FCRA.

21       59. NCC denies allegations in paragraphs 60, including subparts (a) – (g).

22       60. NCC denies allegations in paragraphs 61.

23       **CLASS ACTION ALLEGATIONS**

24       61. NCC admits that Plaintiff purports to bring the claims in the Complaint on behalf of  
 25 various classes defined therein. NCC denies that this matter may be properly maintained against it  
 26 as a class action or that any putative plaintiff is entitled to relief.

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28       <sup>1</sup> NCC includes the headings included in the Complaint for consistency only and without admitting or  
 denying the factual allegations or legal conclusions contained therein.

1       62.    NCC admits that Plaintiff purports to bring claims on behalf of a class. NCC denies  
2 that this matter may be properly maintained against it as a class action or that any putative plaintiff  
3 is entitled to relief.

4       63.    NCC admits that Plaintiff claims that the numerosity requirement is present and  
5 satisfied. This is a legal conclusion, which is not subject to admission or denial. NCC denies that  
6 this matter may be properly maintained against it as a class action or that any putative plaintiff is  
7 entitled to relief. Except as expressly admitted, NCC denies the allegations in paragraph 64.

8       64.    NCC admits that Plaintiff claims that the commonality requirement is present and  
9 satisfied. This is a legal conclusion, which is not subject to admission or denial. NCC denies that  
10 this matter may be properly maintained against it as a class action or that any putative plaintiff is  
11 entitled to relief. Except as expressly admitted, NCC denies the allegations in paragraph 65.

12       65.    NCC admits that Plaintiff claims that the typicality requirement is present and  
13 satisfied. This is a legal conclusion, which is not subject to admission or denial. NCC denies that  
14 this matter may be properly maintained against it as a class action or that any putative plaintiff is  
15 entitled to relief. Except as expressly admitted, NCC denies the allegations in paragraph 66.

16       66.    NCC admits that Plaintiff claims that the adequacy requirement is present and  
17 satisfied. This is a legal conclusion, which is not subject to admission or denial. NCC denies that  
18 this matter may be properly maintained against it as a class action or that any putative plaintiff is  
19 entitled to relief. Except as expressly admitted, NCC denies the allegations in paragraph 67.

20       67.    NCC admits that Plaintiff purports to bring claims on behalf of a class. NCC denies  
21 that this matter may be properly maintained against it as a class action or that any putative plaintiff  
22 is entitled to relief. Except as expressly admitted, NCC denies the allegations in paragraph 68.

23       68.    NCC admits that Plaintiff purports to bring claims on behalf of a class. NCC denies  
24 that this matter may be properly maintained against it as a class action or that any putative plaintiff  
25 is entitled to relief. Except as expressly admitted, NCC denies the allegations in paragraph 69.

26       69.    NCC admits that Plaintiff purports to bring claims on behalf of a class. NCC denies  
27 that this matter may be properly maintained against it as a class action or that any putative plaintiff  
28 is entitled to relief. Except as expressly admitted, NCC denies the allegations in paragraph 70.

1       70. NCC admits that Plaintiff purports to bring claims on behalf of a class. NCC denies  
2 that this claim may be properly maintained against it as a class action. Further, NCC denies the  
3 allegations that the names and addresses of class members are available from NCC's records.  
4 Except as expressly admitted, NCC denies the allegations in paragraph 71.

## COUNT I

**15 U.S.C. §1681e(b)  
On behalf of Plaintiff Individually  
and on behalf of the Class**

9       71.    In response to paragraph 72 of the Complaint, NCC incorporates and re-asserts the  
10 responses contained in the foregoing paragraphs as if fully stated herein.

72. NCC denies allegations in paragraphs 73.

73. NCC denies allegations in paragraphs 74.

74. NCC denies allegations in paragraphs 75.

75. NCC denies allegations in paragraphs 76.

16 WHEREFORE clause of the Complaint. NCC denies each and every allegation not expressly  
17 admitted herein.

## AFFIRMATIVE AND OTHER DEFENSES

## **FIRST DEFENSE**

21 Plaintiff's claims fail to the extent that the Complaint fails to set forth facts sufficient to  
22 state a claim upon which relief may be granted against NCC and fails to state facts sufficient to  
23 entitle Plaintiff to the relief sought.

## **SECOND AFFIRMATIVE DEFENSE**

**(Intervening Superseding Cause)**

26 Plaintiff's claims fail to the extent Plaintiff's purported damages, which NCC continues to  
27 deny, were the result of acts or omission of third persons over whom NCC had neither control nor  
28 responsibility.

## **THIRD AFFIRMATIVE DEFENSE** **(Proximate Cause)**

Plaintiff's claims fail to the extent that Plaintiff's purported damages were the direct and proximate result of the conduct of Plaintiff or others over whom NCC had neither control nor responsibility.

## **FOURTH AFFIRMATIVE DEFENSE** **(Punitive Damages)**

Plaintiff's claim for punitive damages fails to the extent that the Complaint fails to state a claim for relief for punitive damages.

## **FIFTH DEFENSE**

### **(Failure to Mitigate Damages)**

Plaintiff's claims are barred, in whole or in part, to the extent that Plaintiff failed to mitigate his respective alleged damages.

## SIXTH DEFENSE (Impropriety as a Class Action)

This action may not properly proceed as a class action under Federal Rule of Civil Procedure 23 to the extent that, among other reasons, Plaintiff's claims are not typical of the claims of each putative class member; questions of law and fact allegedly common to the putative class do not predominate over the numerous questions affecting only putative class members; a class action is not superior to other available methods for the fair and efficient adjudication of Plaintiff's claims and any claims of putative class members; and there are insurmountable difficulties that would be encountered in any attempt to proceed as a class action.

## **SEVENTH DEFENSE** **(Standing)**

The Complaint is barred, in whole or in part, to the extent that Plaintiff and putative class members lack standing.

## **EIGHTH DEFENSE**

### **(Preclusion)**

Plaintiff's claims are barred, in whole or in part, to the extent the claims made in the Complaint on behalf of putative class members are barred by the doctrine of judicial estoppel.

1 collateral estoppel, and res judicata, including with respect to any related action that are filed or  
2 will be filed by Plaintiff against third parties, including but not limited to Parkway Ford, RouteOne,  
3 LLC and other related to the facts alleged in the Complaint.

4 **NINTH DEFENSE**  
5 **(Right to Assert Additional Defenses)**

6 NCC reserves the right to assert additional defenses at such time and to such extent as  
7 warranted by discovery and factual developments in this case.

8 WHEREFORE, National Credit Center, LLC, requests that the Court enter an order: (1)  
9 dismissing the Complaint with prejudice; (2) awarding NCC its costs and expenses incurred herein;  
10 and (3) awarding NCC such other and further relief as the Court may deem just and proper.

11 DATED: May 17, 2023

12 LEWIS ROCA ROTHGERBER CHRISTIE LLP

13  
14 /s/ *J Christopher Jorgensen*

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21 *Attorneys for Defendant*  
22 *National Credit Center, LLC*

**CERTIFICATE OF SERVICE**

2 I hereby certify that on May 17, 2023, I electronically filed the foregoing with the Clerk  
3 of the Court using the CM/ECF system which will send notification of such filing to all registered  
4 CM/ECF participants.

/s/ Annette Jaramillo  
An Employee of Lewis Roca  
Rothgerber Christie LLP